



Ontario

Ministry of
Consumer and
Commercial
Relations

Property
Rights
Division

Legal
and
Survey
Standards
Branch

BULLETIN NO. 82029

DATE: December 31, 1982

TO:
ALL LAND REGISTRARS

MECHANICS' LIEN ACT
R.S.O. 1980, C. 261, S. 6(2)

(1) LIENS IN RESPECT OF MUNICIPAL
STREETS AND PUBLIC WORKS
(2) DISTINCTION BETWEEN "VACATING"
AND "DISCHARGING" ORDERS

- (1) Subsection 6(2) of the Mechanics' Lien Act provides that a mechanics' lien does not attach to land or premises constituting a public street or highway owned by a municipality, or a "public work" as defined in clause 1(1)(g) of that Act.

As subsection 6(2) of the Mechanics' Lien Act does not prevent the registration of liens, Land Registrars are advised that, effective immediately, claims for lien may be accepted for registration notwithstanding that the land described therein may be a public work or municipally owned street or highway.

- (2) Land Registrars are advised that an order "vacating" a mechanics' lien does not have the same effect as an order "discharging" the lien. Accordingly, under the Land Titles Act where an application to amend the register based on an order vacating the registration of a claim for lien and certificate of action, if any, is received, care should be taken to ensure that the entry in the parcel register indicates that the claim for lien and certificate of action are vacated by the order, and does not indicate that they are discharged. Where, however, an order discharges a claim for lien, the entry should indicate that it is, in fact, discharged. It should be noted that where subsequent parcels are created following the entry of an order "vacating" a mechanics' lien and certificate of action, if any, the following note should be made only on new derivative parcels created in the future and not on existing parcels:

"Note: See Parcel _____ (in the Register for)
Section _____ for vacated mechanics'
liens (and certificates of action.)"

The application should be made in Form 15, O. Reg. 75/82, and an affidavit that the order is in full force and effect and that it affects the land, as required by subsection 15(2) of the regulation together with a copy of the order in accordance with subsection 15(3), should accompany the application.

This bulletin replaces Bulletin 77008.

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